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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,515

04/22/2008

Jack Gilron

4110-57

9482

23117 7590 10/12/2010  
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EXAMINER

DRODGE, JOSEPH W

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

10/12/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,515	<b>Applicant(s)</b> GILRON ET AL.	
	<b>Examiner</b> Joseph W. Drodge	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-22 is/are rejected.
- 7) ☒ Claim(s) 2 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,3-8,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057 as applied to claims 1,3-8,10 and 12 above, and further in view of Randhahn et al patent 5,415,781.

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Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057 as applied to claims 1,3-8,10 and 12 above, and further in view of Jogand et al patent 6,036,867.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057 as applied to claims 1,3-8,10 and 12 above, and further in view of Zeiher et al patent 6,838,001 and Andou et al patent 6,432,310.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057 as applied to claims 1,3-8,10 and 12 above, and further in view of Jogand et al patent 6,036,867 as applied to claims 9 and 18 above, and additionally in view of Kragh patent 4,318,772.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer patent 5,690,829 in view of Haney patent 6,099,733 and Wheatley et al patent 4,176,057 as applied to claims 1,3-8,10 and 12 above, and further in view of Jogand et al patent 6,036,867 as applied to claims 9 and 18 above, and additionally in view of Harris et al patent 6,468,389.

#### ALLOWABLE SUBJECT MATTER

Claims 2 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2 and 11 would distinguish in view of

Any inquiry concerning this communication or earlier communications from

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the examiner should be directed to Joseph Drodge at his direct government telephone number of 571-272-1140. The examiner can normally be reached on Monday-Friday from approximately 8:00 AM to 1:00PM and 2:30 PM to 5:30 PM.

Alternatively, to contact the examiner, send a communication via E-mail communication to the Examiner's Patent Office E-mail address: "Joseph.Drodge@uspto.gov". Such E-mail communication should be in accordance with provisions of MPEP (Manual of Patent Examination Procedures) section 502.03 & related MPEP sections. E-mail communication must begin with a statement authorizing the E-mail communication and acknowledging that such communication is not secure and will be made of record, under Patent Internet Usage Policy Article 5. A suggested format for such authorization is as follows: "Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file.

Additionally, the examiner's supervisor, In Suk Bullock, of Technology Center Unit 1772, can be reached at 571-272-5954.

The formal facsimile phone number, for official, formal communications, for the examining group where this application is assigned is 571-273-8300. The facsimile phone number for informal communication directly with the examiner is 571-273-1140.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more

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information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

10/4/2010

/Joseph W. Drodge/

Primary Examiner, Art Unit 1797